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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,358	04/05/2001	Vincent Dureau	5266-09300	3917
44015	7590	01/15/2010		
OPTV/MEYERTONS MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2424	PAPER NUMBER
			NOTIFICATION DATE 01/15/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/827,358

Applicant(s)

DUREAU ET AL.

Examiner

ANNAN Q. SHANG

Art Unit

2424

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
b) ☐ They raise the issue of new matter (see NOTE below);
c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

Continuation of 11, does NOT place the application in condition for allowance because: With respect to the rejection of the last office action, Applicant discusses the...112 rejection, discusses the rejection using the prior arts of record and further argues that the prior arts of record do not meet the claims limitations, i.e., "wherein said format definition comprises a description of a grammar which defines a syntax of a target language." (see page 10/13+ of Applicant's Remarks).

In responses, Examiner notes Applicant's arguments, however, the Examiner disagrees. Inagaki teaches a broadcasting reception apparatus where a processing unit executes a decoding software program (library) for decoding data using different instructions. Furthermore, Inagaki teaches a header and data, both of which creates the format definition, wherein the header identifies the name of the library and attributes in combination with the data reads on a format definition.

Inagaki further discloses that, the plural data of broadcasting formats also includes video/audio data, EPG data, text data, etc."col.1, lines 5-17, lines 30-63, col.6, lines42-col.7, line 1+", (text...which meets the claim limitation "...a description of grammar..."). As such the name of the library in combination with the code reads on a format definition. Hence Inagaki, teaches libraries for decoding a broadcast signal and additionally received data. Hence Applicant's arguments are not persuasive. The rejection is deemed proper meets all the claims limitations and maintained. This office action is made final.

As to the ...112 rejection, Applicant's arguments filed 05/04/09 have been fully considered but they are not persuasive and Examiner still maintains the position that the preamble of structure and limitations of method steps is improper. The applicant disagrees with the rejection under 35 U.S.C. § 112, second paragraph as being indefinite. The examiner is relying on MPEP 2173.05(p)(II) - directed to a product and process in the same claim. See also: A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. "> IPXL Holdings v. Amazon.com, Inc., 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005);<Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter.1990). The examiner maintains the position that the preamble of structure and limitations of method steps is improper.